

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	
	§	
Louise Richardson et al.	§	Group No.: Unknown
	§	
Serial No.: 10/070,526	§	
	§	
Filed: March 6, 2002	§	Examiner: Unknown
	§	
For: Food Product and Process for Manufacturing the Same	§	DOCKET NO.: HO-P02403US0

**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF
NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Name: Kristina Cornish

Address: Kilburn & Strobe, 20 Red Lion Street, London, United Kingdom WC1R 4PJ

LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR

Name: STELLA COLLINS

Address: 110 NEUHEY ROAD, BROWNLEY GREEN, MANCHESTER,
UNITED KINGDOM M22 9ND

EFFORTS DURING CONVENTION YEAR TO PREPARE APPLICATION AND OBTAIN INVENTOR'S SIGNATURE

The above referenced application is a national stage filing of PCT Application No. PCT/AU00/01055 filed September 6, 2000, which has priority from two Australian applications PQ 2665 filed September 6, 1999 and PQ 5182 filed January 20, 2000. At the time of the invention, three of the five inventors were working in a Mars' Australian facility (Richardson, Giffard and Hodge) and two were working in separate Mars' UK facilities (Stoodley and Collins). Ms. Collins was an employee of Mars UK Limited, a division of Mars Incorporated, from January 12, 1998 to March 16, 2002. Upon information and belief, during the pendency of the PCT application, there was no indication that Ms. Collins would refuse to sign the declaration.

DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR

The declarations for the five inventors of the above referenced application were sent to the Australian agent upon receipt of the request and documents to file a U.S. national stage application. Upon information and belief, after the filing of the national stage application, the Australian agent sent a copy of the filed application papers, including the specification, claims, drawing sheets and abstract, and a declaration and an assignment to Ms. Collins for execution. These documents have never been executed and sent back to the Australian agent.

Because I had previous contact with Ms. Collins, I was asked to contact Ms. Collins and again send her a copy of the filed application papers, including the specification, claims, drawing sheets and abstract, and a declaration and an assignment for execution. On October 8, 2002 I send her a copy of the filed application papers, including the specification, claims, drawing sheets and abstract, and the declaration and the assignment requesting that she execute these documents and return them to me so that I could forward them to Fulbright & Jaworski for filing in the USPTO. Enclosed is a copy of the letter I sent to Ms. Collins. By virtue of the response received, she clearly received the correspondence and attached documents.

DETAILS OF REFUSAL OF NONSIGNING INVENTOR TO SIGN APPLICATION PAPERS

On October 29, 2002 I received a letter from Angus Nicol, an agent of Ms. Collins. A copy of this letter is attached. The letter stated that Ms. Collins is unwilling to execute the documents because "a) no independent professional advise as to the effect of the documents

has been offered, and b) no provision has been made for the payment of a fee to properly compensate her for the time necessary to consider those matters raised by the documents.” Ms. Collins is requesting approximately \$24,000 to execute the declaration and assignment.

In the UK, there is a statutory provision that an employer owns inventions created by employees when made in the course of the normal duties of the employee (UK Patents Act 1977, Section 39). Ms. Collins was an employee of Mars UK Limited when the two priority Australian applications PQ 2665 (filed September 6, 1999) and PQ 5182 (filed January 20, 2000) were filed and when the PCT Application No. PCT/AU00/01055 was filed on September 6, 2000. Mars does not compensate ex-employees for executing documents that they would have freely executed during their employment. Thus, based on the facts set forth above, I believe that Ms. Collins will not execute the declaration.




Signature of person making statement

Date: 6 October 2003

Plus 5 added pages

CERTIFICATE UNDER 37 C.F.R. § 1.8(A)

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail ER147-59514US in an envelope addressed to: Commissioner of Patent, P.O. Box 1450, Alexandria VA 22202-1450, on Oct 27, 2003.



Jan K. Simpson
Registration No. 33,283

Kilburn & Strode

European Patent Attorneys
Chartered Patent Attorneys
Trade Mark Attorneys

20 Red Lion Street
London WC1R 4PJ
Tel: +44 (0)20-7539 4200
Fax: +44 (0)20-7539 4299
Email: ks@kstrode.co.uk

Ms Stella Collins
110 Neuhey Road
Brownley Green
MANCHESTER
M22 9ND

COPY

BY RECORDED DELIVERY

Our Ref: PM32721/KVC/DLW
Your Ref:

8 October 2002

Dear Ms Collins

Request for Your Signature in Relation to Documents in Respect of US Patent Application No. 10/070,526

I am writing to seek your signature to finalise some formality requirements in respect of a US patent application on which you are named as inventor.

For your review, a copy of the front sheet of the published international patent application in question, namely WO 01/17364, is enclosed. The US patent application for which I am seeking your signature is the US national phase derived from this international application. A copy of the text of the US national application is also enclosed.

In order to complete the formality requirements in the US, the USPTO requires your signature on two documents. These documents are enclosed and are as follows:-

- 1) Confirmation of your assignment of the invention to your employer, Mars UK Limited.
- 2) A declaration that you are an inventor on the invention as described in the enclosed text.

With regard to the assignment, you should be aware that by virtue of your employment by Mars UK Limited, the rights in the invention belong to your employer under Section 39 of the UK Patents Act 1977.

Partners: R.Ashmead N.R.Jennings D.C.Ross M.N.Maggs P.Hale P.W.Chapman J.L.W.Miller
Kristina V.J.Cornish G.V.Roberts T.Z.Gold N.J.Hedley N.C.Bassil N.J.Lee Carrollanne H.A.Lindley
Associates: T.G.Copley T.J.Ford Juliet J.G.Hibbert Anna E.Reeve
Consultants: A.G.Sheard Alison C.Roberts Elizabeth M.Cratchley OBE Ann B.Addison Caroline T.Bonella
Partnership Secretary: S.Collins Records: M.R.Jenkins Accounts: B.J.Nuthey

I would therefore be grateful if you would read the enclosed documents, sign them and return them to me at your earliest convenience. At the present time, there is a due date in the US for filing these documents around the middle of November 2002.

If you believe that for any reason the documents are inappropriate or that you are not inclined to sign them, I would be grateful if you would let me know. You can contact me at the telephone number on this paper or at my e-mail address which is kcornish@kstrode.co.uk

For your use, a stamped addressed envelope is enclosed.

I look forward to receiving the completed documents from you.

Thank you for your assistance.

Yours sincerely

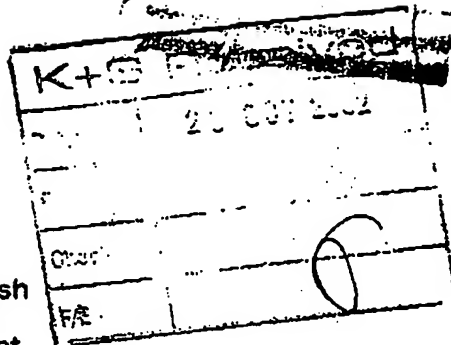
Kristina Cornish

Encs

COPY

25 Swan Street
Seagrave
Loughborough
Leicestershire

28th October 2002



Ms Kristina Cornish
Kilburn & Strode
20 Red Lion Street
London
WC1R 4PJ

Your Ref: PM32721/KVC/DLW

Dear Ms Cornish

Re: US Patent Application No. 10/070,528

Further to your letter, dated 8th October 2002 addressed to Ms Stella Collins and in respect to the above Application I write with regard to the enclosed documents, execution of which is necessary for the Application to proceed to registration, as follows:

1. Assignment of Patent Rights
2. U.S. Patent Declaration Form

I hold the above, unexecuted documents to the order of Ms Collins who has advised me she is unwilling to complete them for the following reasons:

- a.) No independent, professional advice as to the effect of the documents has been offered.
- b.) No provision has been made for the payment of a fee to properly compensate her for the time necessary to consider those matters raised by the documents.

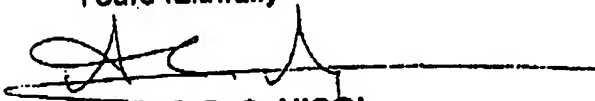
Accordingly, Ms Collins would be willing to execute the documents subject to receipt of proper compensation for her time and subject to the recommendation

of an independent legal adviser appointed by her. Being mindful of the time limits relating to the application procedure there is added time.

She has calculated that an amount of £15,000 would be suitable compensation in the circumstances. In that regard and for all matters relating to this reference I have been engaged as agent acting on Ms Collins's behalf to include authority to receive payments (see enclosed).

So that you may respond to this letter with efficacy I propose that all future correspondence be directed to the facsimile number 01884 810 102. Should you wish to discuss the above please do not hesitate to contact me on 07989 405 038.

Yours faithfully


ANGUS G. S. NICOL

AUTHORITY

DATED: 28th October, 2002


I, Stella Boe Collins of Unit 12 Asfordby Business Park, Melton Mowbray,
Leicestershire LE14 3JL declare as follows:

I HEREBY authorise Angus G. S. Nicol to act and to receive monies on my behalf
in relation to my claim for compensation from Mars UK Limited as outlined in my
letter dated 28th October 2002 to Messrs Kilburn & Strode Patent Agents.

SIGNATURE



WITNESS
WITNESS ADDRESS


T Brook Drive
Ratby
Leicester
LE8 0AR